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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/581,220	06/01/2006	Hans Kodden	NL03 1409 US1	1671

24738 7590 11/12/2009

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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EXAMINER	
TEATERS, LINDSEY C	
ART UNIT	PAPER NUMBER
3742	
MAIL DATE	DELIVERY MODE
11/12/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/581,220	KODDEN ET AL.	
	Examiner	Art Unit	
	LINDSEY C. TEATERS	3742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 August 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-17* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-17* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Specification

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

2. The abstract of the disclosure is objected to because it uses legal phraseology such as “means”. Correction is required. See MPEP § 608.01(b).

Response to Arguments

3. Applicant's arguments with respect to claims 1-17 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall

> have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-7, 10, and 14 are rejected under 35 U.S.C. 102(e) as being anticipated by Cai (US 2003/0096038 A1), cited by applicant.

Cai teaches:

Re claims 1-7: a beverage making device (fig 9) comprising a brewing chamber (149) for enclosing one or more pads (10) containing a substance (12b) from which the beverage is to be brewed, means (137) for supplying water to the brewing chamber, means (123) for conducting the brewed beverage from the brewing chamber, means (77, 79) for squeezing the one or more pads after the brewing process has been finished but before the brewing chamber is opened after the brewing process, and wherein the brewing chamber is closed during the brewing of the brewed beverage (paragraph [0040]), the brewing chamber has an upper wall (79) and a lower wall (121), the one ore more pads can be located between the walls (fig 9), the means for squeezing temporarily reduces the distance between the walls, one of the walls has a portion (bottom portion of curved 79) that can move into the brewing chamber after the brewing process has taken place without previously moving the upper wall into an open position, the lower wall or a portion thereof can be moved upwards without previously moving the upper wall into an open position after the brewing process (expansion and retraction due to pressure increase and decrease in the brewing chamber is inherent), the distance between the upper wall and the lower wall increases due to fluid pressure (inherent), the upper wall is part of a lid that can be lifted to open the brewing chamber (must be removable at sealing engagement 140/141 to

remove cartridges), wherein the lid and upper wall can move downwards before the lid is moved upwards to open the brewing chamber (paragraph [0040]), and the lid is able to hinge about a horizontal axis.

Re claim 10: a method of making a device comprising a brewing chamber (149) for enclosing one or more pads (10) containing a substance (12b) from which the beverage is to be brewed, means (137) for supplying water to the brewing chamber, means (123) for conducting the brewed beverage from the brewing chamber, providing the means for conducting the brewed beverage with a device (77. 79) to squeeze the one or more pads in the brewing chamber after the brewing process has been finished but before the brewing chamber is opened after the brewing process, and wherein the brewing chamber is closed during the brewing of the brewed beverage (paragraph [0040]).

Re claim 14: a beverage making device (fig 9) comprising a brewing chamber (149) configured to enclose one or more pads (10) containing a substance (12b) from which the beverage is to be brewed, a device (137) configured to supply water to the brewing chamber, an outflow tube (123) configured to conduct the brewed beverage from the brewing chamber, a lid (79) forming a wall of the brewing chamber, configured to squeeze the one ore more pads without opening the brewing chamber after the brewing process has been finished, and wherein the brewing chamber is closed during brewing of the brewed beverage (paragraph [0040]).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 9, 11-12, and 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cai (US 2003/0096038 A1), cited by applicant.

Re claim 9:

Cai teaches that a central portion (bottom portion of curved wall 79) of the squeezing means extends from the upper wall in a downward direction, and that the central portion squeezes the one ore more pads after the brewing process (paragraph [0040], see fig 9). Cai fails to teach that the central portion squeezes the one or more pads when a user pushes down on the means for squeezing. It would have been obvious to one of ordinary skill in the art at the time of invention to substitute the automated squeezing, taught by

Cai, for a manual step responsive to a user pressing down on the lid to squeeze the pad, as the automated step of Cai performs the same function equally well. Providing manual means the squeeze the pad may also facilitate a more cost effective and simpler design.

Re claims 11-12:

Cai teaches an upper wall (79) and a lower wall (121) of the brewing chamber, where the one or more pads can be located between the walls (fig 9), providing the upper wall with a central portion (bottom of curved wall 79) extended downwardly as a spherical protrusion, and where the central portion squeezes the one or more pads after the brewing process. Cai fails to teach that the central portion squeezes the one or more pads when a user pushes down on the means for squeezing. It would have been obvious to one of ordinary skill in the art at the time of invention to substitute the automated squeezing, taught by Cai, for a manual step responsive to a user pressing down on the lid to squeeze the pad, as the automated step of Cai performs the same function equally well. Providing manual means the squeeze the pad may also facilitate a more cost effective and simpler design.

Re claims 15-16:

Cai teaches that the wall is configured having a central portion (bottom of curved wall 79) that is extended downwardly as a spherical protrusion, and where the central portion squeezes the one or more pads after the brewing process. Cai fails to teach that the central portion squeezes the one or more pads when a user pushes down on the means for squeezing. It would have been obvious to one of ordinary skill in the art at the time of

invention to substitute the automated squeezing, taught by Cai, for a manual step responsive to a user pressing down on the lid to squeeze the pad, as the automated step of Cai performs the same function equally well. Providing manual means the squeeze the pad may also facilitate a more cost effective and simpler design.

9. Claims 8, 13, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cai (US 2003/0096038 A1), cited by applicant, in view of Winstanley et al (US 2005/0160918 A1) and Tagawa (US 2002/0008447 A1).

Re claim 8:

Cai discloses the claimed invention as set forth above except for a latch mechanism configured to keep the brewing chamber closed. Winstanley et al, however, teaches a coffee brewer (fig 1) having a latch mechanism (106, fig 1) configured to keep a brewing chamber closed (page 8, lines 12-13).

In view of Winstanley et al's teachings, it would have been obvious to one of ordinary skill in the art at the time of invention to utilize a latch with the brewing chamber, taught by Cai. It is important that the brewing chamber stay securely closed during brewing to prevent messes and to ensure the safety of the user.

Cai, modified by Winstanley et al, fails to teach that the latch is releasable only when the lid is pressed downward when the lid is in a closed position. Tagawa, however, teaches a

latch holding together a compartment which is releasable only when the lid is pressed downwards when the lid is in a closed position (paragraph [0035], Fig 4).

In view of Tagawa's teachings, it would have been obvious to one of ordinary skill in the art at the time of invention to release the latch, taught by Cai as modified by Winstanley et al, when the lid is pressed downward. This type of closure allows for an internal type of lock, where no pieces are exposed to the exterior of a device, which is easy to use and aesthetically pleasing. Even though Tagawa is not applied to a beverage production device, the downward pressing lid would function equally in either assembly.

Re claim 13:

Cai discloses the claimed invention as set forth above except that a latch mechanism is provided to keep the brewing chamber closed. Winstanley et al, however, teaches a coffee brewer (fig 1) having a latch mechanism (106, fig 1) configured to keep a brewing chamber closed (page 8, lines 12-13).

In view of Winstanley et al's teachings, it would have been obvious to one of ordinary skill in the art at the time of invention to utilize a latch with the brewing chamber, taught by Cai. It is important that the brewing chamber stay securely closed during brewing to prevent messes and to ensure the safety of the user.

Cai, modified by Winstanley et al, fails to teach that the latch is releasable only when the lid is pressed downward when the lid is in a closed position, thereby squeezing the one or

more pads. Tagawa, however, teaches a latch holding together a compartment which is releasable only when the lid is pressed downwards when the lid is in a closed position (paragraph [0035], fig 4).

In view of Tagawa's teachings, it would have been obvious to one of ordinary skill in the art at the time of invention to release the latch, taught by Cai as modified by Winstanley et al, when the lid is pressed downward. This type of closure allows for an internal type of lock, where no pieces are exposed to the exterior of a device, which is easy to use and aesthetically pleasing. Even though Tagawa is not applied to a beverage production device, the downward pressing lid would function equally in either assembly. Tagawa does not express the act of squeezing the contents of the compartment by the downward motion of the lid, but it is obvious that downward motion of a lid resting adjacent to a saturated pad would squeeze the pad.

Re claim 17:

Cai discloses the claimed invention as set forth above except that a latch mechanism is provided to keep the brewing chamber closed. Winstanley et al, however, teaches a coffee brewer (fig 1) having a latch mechanism (106, fig 1) configured to keep a brewing chamber closed (page 8, lines 12-13).

In view of Winstanley et al's teachings, it would have been obvious to one of ordinary skill in the art at the time of invention to utilize a latch with the brewing

chamber, taught by Cai. It is important that the brewing chamber stay securely closed during brewing to prevent messes and to ensure the safety of the user.

Cai, modified by Winstanley et al, fails to teach that the latch is releasable only when the lid is pressed downward when the lid is in a closed position, thereby squeezing the one or more pads. Tagawa, however, teaches a latch holding together a compartment which is releasable only when the lid is pressed downwards when the lid is in a closed position (paragraph [0035], fig 4).

In view of Tagawa's teachings, it would have been obvious to one of ordinary skill in the art at the time of invention to release the latch, taught by Cai as modified by Winstanley et al, when the lid is pressed downward. This type of closure allows for an internal type of lock, where no pieces are exposed to the exterior of a device, which is easy to use and aesthetically pleasing. Even though Tagawa is not applied to a beverage production device, the downward pressing lid would function equally in either assembly. Tagawa does not express the act of squeezing the contents of the compartment by the downward motion of the lid, but it is obvious that downward motion of a lid resting adjacent to a saturated pad would squeeze the pad.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LINDSEY C. TEATERS whose telephone number is 571-

270-5913. The examiner can normally be reached on Mon-Thur 8:30am-6:00pm :: alternating Fri 8:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu Hoang can be reached on 571-272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/LINDSEY C TEATERS/
Examiner, Art Unit 3742

11/09/2009
/TU B HOANG/
Supervisory Patent Examiner, Art Unit 3742